

**TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING REJECTION
OVER A PENDING "REFERENCE" APPLICATION**

Docket No. CDS5070USNP

In reApplication of: Robert Falotico

Application No.: 10/805,722

Filed: 03/22/08

For: LOCAL VASCULAR DELIVERY OF ETOPOSIDE IN COMBINATION WITH RAPAMYCIN TO
PREVENT RESTENOSIS FOLLOWING VASCULAR INJURY

**I hereby certify that this correspondence is being transmitted via
The Office electronic filing system in accordance with 37 CFR 1.6(a)(4)**

10/30/08

(Date of Transmission)

Carl J. Evens

(Name of applicant, assignee, or Registered Representative)

/Carl J. Evens/

(Signature)

10/30/08

(Date of Signature)

The owner*, Cordis Corporation, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending **reference** Application Number 10/883,228 filed on 07-01-2004, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending **reference** application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the **reference** application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said **reference** application, "as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending **reference** application," in the event that: any such patent: granted on the pending reference application: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No.: 33,874

/Carl J. Evens/

October 30, 2008

Signature

Date

Typed or printed name : Carl J. Evens

Telephone Number: 732-524-2518

☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included. Please charge Johnson & Johnson Deposit Account No. 10-0750/CRD5070USNP/CJE in the amounts of \$140.00 for submission of the Terminal Disclaimer. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Account No.10-0750/CRD5070USNP/CJE.

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*Statement under 37 **CFR 3.73(b)** is required if terminal disclaimer is signed by the assignee (owner).

Form PTO/SB/96 may be used for making this statement. See MPEP **§** 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
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